

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                                 |   |                                     |
|---------------------------------|---|-------------------------------------|
| <b>KHARY SHERIFF ARRINGTON,</b> | ) |                                     |
|                                 | ) |                                     |
| <b>Petitioner,</b>              | ) |                                     |
|                                 | ) |                                     |
| <b>v.</b>                       | ) | <b>Case No. 1:18-cv-277-SPB-RAL</b> |
|                                 | ) |                                     |
| <b>FCI McKEAN WARDEN,</b>       | ) |                                     |
|                                 | ) |                                     |
| <b>Respondent.</b>              | ) |                                     |

**MEMORANDUM ORDER**

This action for habeas corpus relief was received by the Clerk of Court on September 21, 2018 and filed of record on October 26, 2018, ECF Nos. 1, 4. Respondent filed his response to the petition on March 5, 2019. ECF No. 12. On March 12, 2019, the matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules for Magistrate Judges. ECF No. 13. Petitioner subsequently filed a brief in support of his petition and in opposition to the Respondent’s response. ECF No. 14.

On January 29, 2020, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the petition be dismissed for lack of jurisdiction. ECF No. 17. The Petitioner filed Objections to the Report and Recommendation arguing that the New Jersey drug offenses for which he was convicted no longer qualify as predicate offenses under the U.S. Sentencing Guidelines. ECF No. 24. According to Petitioner, this Court has jurisdiction to grant him habeas relief pursuant to 28 U.S.C. §2241 and the “Savings Clause” of 28 U.S.C. §2255(e). *Id.* The R&R recommends that Petitioner does not qualify under the Savings Clause to provide this court with jurisdiction.

After *de novo* review of the petition and documents in the case, together with the report

and recommendation and Petitioner's objections to the R&R, the following order is entered:

AND NOW, this 31st day of March, 2020, IT IS ORDERED that the within petition for a writ of habeas corpus be, and hereby is, DISMISSED for lack of jurisdiction.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on January 29, 2020, ECF No. [17], is adopted as the opinion of this Court.

As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER  
United States District Judge

cm: KHARY SHERIFF ARRINGTON  
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Adam Fischer, Esq. (via CM/ECF)

The Honorable Richard A. Lanzillo (via CM/ECF)